

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

PERIODIC REPORTING
(PROPOSAL TWO)

Docket No. RM2016-10

**RESPONSE OF UNITED STATES POSTAL SERVICE TO UNITED PARCEL
SERVICE INC.'S MOTION FOR ACCESS**
(September 28, 2016)

The United States Postal Service (Postal Service) hereby files its response to United Parcel Service Inc.'s (UPS's) motion for access to certain non-public materials that the Postal Service filed in this docket.¹

As background, on September 23, 2016, UPS filed a motion for access pursuant to Commission Rules 3007.21 and 3007.40, seeking access under protective conditions to a non-public folder, USPS-RM2016-10/NP1, which the Postal Service filed with the Postal Regulatory Commission (Commission) on August 22, 2016 in this docket.

The Postal Service has contacted two third parties who could be impacted by the disclosure of non-public information requested by UPS in its motion for access to these materials. As discussed below, one of these third parties has expressed serious concerns about the implications of this request.

The Postal Service believes that the materials that are the subject of UPS's motion for access are confidential and commercially sensitive, as outlined in the Postal Service's application for non-public treatment initially filed in the 2015 Annual

¹ United Parcel Service, Inc.'s Motion for Access, Docket No. RM2016-10, September 23, 2016.

Compliance Report (ACR) docket.² Furthermore, these materials are information of a commercial nature, which under good business practice would not be publicly disclosed. As such, this information normally would be exempt from mandatory public disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. § 552(b)(3), (b)(4). Moreover, this information is highly confidential within the broader shipping services market.

The Postal Service also fears that if UPS's motion is granted, the outcome could have a chilling effect on third parties' interests in pursuing business with the Postal Service. In turn, the Postal Service could suffer damaged business relationships.

While UPS and the Commission may take comfort in the fact that UPS's representatives are willing to execute certifications representing their willingness to use the nonpublic materials solely for participation in this docket, and assert that they are not involved in competitive decision-making, these assurances do not protect against the potential for inadvertent disclosure that could arise any time the materials are replicated and saved outside the Postal Service's and Commission's files. Simply put, the more servers and authorized users that have access to the information, the greater the risk of public disclosure. Moreover, the parties to whom the information would be disclosed do not sign standard nondisclosure agreements that provide further legal protections, as well as indemnification in the event of unauthorized disclosure.

² The Postal Service herein incorporates by reference its arguments, and the identified harms that would come from disclosure of these materials, that are contained in the Postal Service's Application for Non-Public Treatment in the FY2015 ACR docket. See United States Postal Service FY 2015 Annual Compliance Report, Docket No. ACR2015, December 29, 2015, Attachment Two. Specifically, the third-party information contained in the nonpublic materials submitted in this docket for purposes of revising ICRA reporting parallels the third-party information identified in the earlier FY2015 ACR Application with respect to the current ICRA, presented in USPS-FY15-NP2.

Also included with this response, as Attachment 1, is a letter from Canada Post, the designated postal operator of Canada. In the letter, Canada Post expresses views that are similar to those expressed by the Postal Service above. Canada Post notes that “[i]nformation about cross-border flows and pricing of parcels between Canada Post and the USPS is ... both commercially sensitive and confidential.” Accordingly, Canada Post respectfully asks that the Commission not grant “UPS consultants’ request for relief.”

In view of the potential risks and harm to the Postal Service and its business relationships, the Postal Service respectfully requests that UPS reconsider and withdraw its request. In the event UPS declines to do so, the Postal Service urges the Commission to give due consideration to the concerns raised in this pleading.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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September 28, 2016

WITHOUT PREJUDICE

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**Re: Postal Regulatory Commission Filing 97265 of 23 September 2016,
Docket RM 2016-10**

Dear Mr. Alverno,

Canada Post appreciates this opportunity to make representations in respect of Filing 97265.

Canada Post has real and reasoned concerns about the risks posed by the unauthorised disclosure of certain non-public, confidential and commercially sensitive information. Canada Post and its many parcels customers operate in a fully competitive parcels market. Information about cross-border flows and pricing of parcels between Canada Post and the USPS is by its very nature both commercially sensitive and confidential. Disclosure to unauthorised parties would seriously disadvantage not only Canada Post, but also its customers.

In addition, the risks posed by such disclosure would set up a disincentive for Canadian mailers to use postal services in cross-border transactions with the US.

Canada Post respectfully asks that the PRC not grant the UPS consultants' request for relief.

Yours sincerely,



Donald Campbell
Senior Counsel

CC John West, Rene Desmarais, Dennis Jarvis, Terry Dunn